

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:	ADMINISTRATIVE CONSENT ORDER
CENTRAL CABLE CONTRACTORS, INC. Cerro Gordo County, Iowa	NO. 2011-WW-10

IO: Dale Jansen, Owner and Registered Agent
Central Cable Contractors, Inc.
W7435 County AW
Waupun, WI 53963-9706

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Central Cable Contractors, Inc. for the purpose of resolving wastewater violations which occurred during the cable installation activities undertaken by Central Cable Contractors, Inc. in Plymouth, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Jeremy Klatt, Field Office 2
Iowa Department of Natural Resources
2300 15th S.W.
Mason City, Iowa 50401
Phone: 641-424-4073

Relating to legal requirements:

Kelley Myers, Attorney for the DNR
Iowa Department of Natural Resources
502 East Ninth Street
Des Moines, Iowa 50319
Phone: 515-281-5634

Payment of penalty to:

Iowa Department of Natural Resources
Henry A. Wallace Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

Pursuant to Iowa Code section 455B.191, which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III (water quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties, DNR has jurisdiction to issue this administrative consent order.

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III. STATEMENT OF FACTS

1. Central Cable Contractors, Inc. is a corporation organized under the laws of Wisconsin; it operates in Iowa. The company specializes in cable laying, directional boring, trenching, copper splicing, and fiber splicing.
2. On May 24, 2011, DNR Field Office 2 received a complaint about Central Cable Contractors, Inc. discharging water and silt by a stream in Plymouth, Iowa.
3. On May 26, 2011, Jeremy Klatt, DNR Field Office 2 Environmental Specialist, traveled to the site of the alleged violation and documented that driller's mud and soil (hereinafter referred to collectively as mud) had been dumped directly adjacent to Rose Creek in Plymouth, Iowa, that no erosion control or silt retention measures were in place, and that mud was discharging from the dump site into the creek. Rose Creek is a water of the state of Iowa.
4. On May 26, 2011, after documenting the conditions at Rose Creek, Mr. Klatt contacted Tom Kamp, superintendent of Central Cable Contractors, Inc.'s project in Plymouth, via telephone to notify him of the discharge and to tell him to place storm water controls at the site and remove the mud from Rose Creek and the adjacent dump site.
5. On May 31, 2011, Mr. Klatt met with Mr. Kamp at the dump and discharge site to discuss removal of the mud. Mr. Kamp asked to wait a few days before removing the mud to allow it to dry. Mr. Klatt approved of Mr. Kamp waiting the few days for the stated purpose and observed that silt fencing had been installed around the dump site.
6. On June 3, 2011, Mr. Klatt observed mud being removed from Rose Creek with a backhoe and vacuum truck. Mr. Klatt asked Mr. Kamp to submit a chronology of dumping at the dump site.
7. On June 7, 2011, Mr. Klatt received an email chronology from Mr. Kamp indicating that ten loads of mud were dumped at the dump site between May 16, 2011 and May 24, 2011.
8. On June 10, 2011, DNR Field Office 2 issued a Notice of Violation letter to Central Cable Contractors, Inc. for improperly dumping the mud, which resulted in an unpermitted discharge to a water of the state. The letter informed the company that the matter was being referred for further enforcement.
9. Central Cable Contractors, Inc. does not have a permit from DNR to discharge the mud into Rose Creek or any other water of the state for this project.
10. Central Cable Contractors, Inc. has received two other Notices of Violation from DNR for allowing mud to discharge into a water of the state in other locations. DNR sent the first Notice of Violation after Central Cable Contractors, Inc. dumped drilling slurry on a

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boat ramp in Steamboat Rock, Iowa in April of 2000 without a permit. DNR sent the second Notice of Violation on October 22, 2010, after Central Cable Contractors, Inc. dumped drilling mud into a storm sewer inlet in North Liberty, Iowa, resulting in an impact to Muddy Creek, without a permit.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into any water of the state, except for adequately treated pollutants discharged pursuant to a permit issued by the DNR. Subsection (18) and (37) of Iowa Code section 455B.171 define "pollutant" and "water of the state," respectively. Central Cable Contractors, Inc. discharged pollutants into a water of the state without a permit, in violation of Iowa Code section 455B.186.

2. Iowa Code section 455B.173 provides that the Environmental Protection Commission (Commission) shall establish rules governing the prevention, control and abatement of water pollution. The Commission has adopted 567 IAC chapters 61 and 62, relating to water quality standards and effluent limitations and prohibitions, respectively.

3. 567 IAC 62.1(1) prohibits the discharge of any pollutant from a point source into a navigable water unless authorized by a National Pollutant Discharge Elimination System (NPDES) permit, a permit issued by the DNR. Central Cable Contractors, Inc. discharged pollutants into a water of the state without a permit, in violation of 567 IAC 62.1(1).

4. 567 IAC 61.3(2)(c) specifies that waters of the state that are surface waters shall be free from substances and materials producing objectionable color, odor or other aesthetically objectionable conditions. The discharge of mud by Central Cable Contractors, Inc. into a water of the state violated the general water quality standard set out in 567 IAC 61.3(2)(c).

V. ORDER

THEREFORE, it is hereby ordered and Central Cable Contractors, Inc. agrees to the following:

1. Central Cable Contractors, Inc. shall pay a penalty of \$7,000.00 within 30 days of the date the Director of DNR signs this administrative consent order.

VI. PENALTY

Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the water quality violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision. DNR was able to document at least eight days of violation in this matter.

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Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a \$7,000.00 penalty. The administrative penalty assessed by this administrative consent order is determined as follows:

Gravity of the Violation – In Iowa, sediment is the leading nonpoint source pollutant. Most of the streams and lakes in Iowa are negatively impacted by sediment and siltation. The discharge of 10,000 gallons of mud into Rose Creek contributes to the degradation of the state's waters. Based on these considerations, \$3,000.00 is assessed for this factor.

Culpability – Disposal of the mud at this location shows a failure to recognize the mud as a pollutant that must be kept out of state waters. Moreover, Central Cable Contractors, Inc. staff would have, or should have, noted that the dumping of the mud at this location was impacting the creek; however, Central Cable Contractors, Inc. continued to dump mud at this location for over eight days. This shows a complete disregard for the impact of the activity on the environment. Based on these considerations, \$3,000.00 is assessed for this factor.

Mitigating or Aggravating Factor – DNR sent Central Cable Contractors, Inc. two other Notices of Violation, one on October 22, 2010 and another after an incident in April of 2000, for allowing mud to discharge into a water of the state in two other locations. This company was aware that such practice was prohibited under state law and yet it discharged pollutants into a water of the state again in May, 2011. Based on these considerations, \$1,000.00 is assessed for this factor.

Economic Benefit – The convenience of this dumping location saved time and transportation costs for Central Cable Contractors, Inc. as opposed to hauling the mud to an appropriate disposal location. Therefore, some economic benefit occurred; however, such a benefit cannot be accurately determined at this time. Therefore no penalty is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

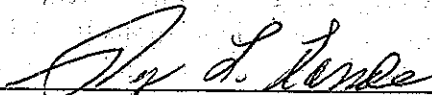
This administrative consent order is entered into knowingly and with the consent of Central Cable Contractors, Inc. For that reason, Central Cable Contractors, Inc. waives the rights to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative

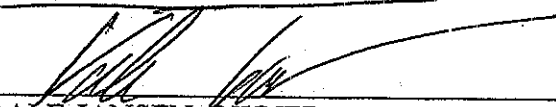
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consent order. Failure to comply with this administrative consent order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



ROGER L. LANDE, DIRECTOR
Iowa Department of Natural Resources

Dated this 15th day of
August, 2011.



DALE JANSEN, OWNER
Central Cable Contractors, Inc.

Dated this 10th day of
AUGUST, 2011.

Kelley Myers; DNR Field Office 2; EPA; I.B.; I.C.1.; I.C.6.a.